

MINUTES

PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, JANUARY 18, 2007 10:00 A.M. CITY HALL 8TH FLOOR – COMMISSION CONFERENCE ROOM

Members Present:

Peter R. Partington, City Engineer
Bob Dunckel, Assistant City Attorney III
Tony Irvine, City Surveyor
James Cromar, Planner III
Tom Terrell, Public Works Maintenance Manager
Julie Leonard, Assistant Utilities Service Director
Carol Ingold Mordas, Parks Supervisor
Catherine McCaffrey, Community Inspections Manager

Staff Present:

Victor Volpi, Senior Real Estate Officer
Darlene Pfeiffer, Parking Services
Anthony Fajardo, Planning Division
Adrienne Ehle, Planning Division
Ella Parker, Planning Division
Jeff Lucas, Fire Inspector
Eileen Furedi, Secretary I

Guests Present:

Joe Holland
Miranda Lopez
Debbie Orshefsky
Andy Mitchell
Traci Scheppske
Gregg Mire

Peter Partington called the meeting at 10:10 A.M. and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public right-of-way.

ITEM ONE: **APPROVAL OF NOVEMBER 16, 2006 MINUTES**

James Cromar pointed that Item Five, Page 6, which refers to 2220-2300 NW 21 Avenue did not include the outcome of the Committee's vote to the motion.

Discussion followed as to deferring that part of Item Five until the next meeting for clarification as to the Committee's vote.

MOTION BY TONY IRVINE TO APPROVE THE NOVEMBER 16, 2006 MINUTES, MINUS THE PORTION OF THE MINUTES THAT REFER TO 2220-2300 NW 21 AVENUE (ITEM FIVE). SECONDED BY JAMES CROMAR.

MOTION PASSED UNANIMOUSLY.

ITEM TWO: **VACATION OF PLATTED EASEMENT**

Address or General Location: 1368 NE 14 Street and 1372 NE 14 Street

Victor Volpi introduced item stating that McLaughlin Engineering (agents for the owners) would like a positive recommendation to vacate two 5-foot easements on either side of the subject property, as shown on Exhibit A. He said there is a 5-foot easement on either side of this property that will remain due to existing utilities, however, the applicant believes there are no utilities in the two 5-foot interior easements. Victor Volpi introduced Paul Lovesky.

There were no representatives for this item.

MOTION BY BOB DUNCKEL TO TABLE UNTIL THE NEXT PROPERTY AND RIGHT-OF-WAY MEETING. SECONDED BY TONY IRVINE.

MOTION PASSED UNANIMOUSLY.

ITEM THREE: **VACATION OF STREETS**

Address or General Location: 2200 N Atlantic Boulevard

Victor Volpi introduced item stating that Fairwinds on the Ocean, LLC would like a positive recommendation to vacate North Atlantic Boulevard (Atlantic Avenue) from NE 22 Street to NE 23 Street (NE 3 Street platted) and NE 22 Street, from North Atlantic Boulevard to the ocean (Sand Beach), in order to construct a 226 room hotel and 98 condominium units on the four (4) acre site that they have assembled on the beach. Victor Volpi introduced Greg Mire.

Greg Mire introduced Ms. Orshefsky, Attorney for the applicant. Ms. Orshefsky said the project site offers 460 feet of frontage on the Atlantic Ocean and 500 feet of frontage along SR A-1-A. Ms. Orshefsky stated that it was currently comprised of the 106-room Ireland's Inn Resort operated by the Ireland family, and also includes 24 condominium units and 12 apartments, all 36 of which are used as full-time residences. Ms. Orshefsky said the recently constructed but unoccupied 16-unit Oceanside condominium project, located in the southeast quadrant of the SR A-1-A/NE 23 Street intersection on the site of the old Luna Restaurant, is also within the project site. Ms. Orshefsky

stated that the project site occupies the entire area between NE 23 Street and The Palms condominium towers, and all existing structures are planned to be demolished to accommodate the redevelopment project.

Ms. Orshefsky said her client proposes to vacate the right-of-way along a portion of NE 22 Street which was currently an emergency access for The Palms.

Discussion followed as to vehicular access in the vicinity, access points on A-1-A that have been conceptually approved by FDOT, the main access being right in/right out, access to the loading areas, and emergency access to The Palms.

Ms. Orshefsky said the applicant has been working with The Palms, the Police, and the Fire Department, and believes emergency access to The Palms has improved. Ms. Orshefsky said the applicant has done extensive work with FDOT, the City and Broward County relative to the realignment of 23 Street and have added parking spaces on NE 22 Street. Ms. Orshefsky said NE 23 Street was a beach access point and the parking spaces belong to the Ireland's. Bob Dunckel said he disagreed. He said the Ireland's have put up signs making them private spaces but they are actually part of the public right-of-way. Bob Dunckel stated those signs should be removed. Ms. Orshefsky said those issues would be examined.

Ms. Orshefsky said there was a visibility issue from A-1-A and the Ireland's Inn has been a watchdog for the area. Ms. Orshefsky said due to the lighting situation and to comply with turtle nesting requirements there has been additional crime in the area, and her client believed the proposed plan would improve the situation. Mr. Mitchell, Manager of Fairwinds on the Ocean, LLC, said there was a problem with visibility and Captain Penny had the details. Mr. Mitchell said he lived in the building at the end of the street and after 10:00 - 11:00 p.m., and during turtle season there was a problem with crime. Ms. Mitchell added that \$7500.00 worth of equipment was recently stolen from the building he currently lived in. Ms. Orshefsky said the proposed plan would include cabanas, which would create activity day and night.

Carol Ingold Mordas said NE 23 Street was a major access way for the Parks and Recreation Division's seaweed trucks.

Ms. Orshefsky said her client would be expanding the sidewalk and making it wider, enhancing the pedestrian experience in getting to the site, providing public parking, and had letters of support from the immediate adjacent property owners.

Jeff Lucas asked if the applicant received an approval for fire access. Ms. Scheppske, with Keith and Associates, Inc., said they recently discussed fire access issues with Keith Gair, Fire Safety Lieutenant. Jeff Lucas stated he spoke with Keith Gair prior to today's PROW meeting and he did not mention anything to him about approval. Jeff Lucas said he could not recommend approval of the proposed street vacation until a plan was approved for all Fire Department needs.

Bob Dunckel clarified that the proposal was to vacate North Atlantic Boulevard. He said to satisfy emergency access to The Palms the fire trucks would be coming straight off of A-1-A.

Discussion followed as to emergency access to The Palms and the townhomes, and turning radius and connection issues.

Peter Partington asked if anything within The Palms site had to be changed or moved, in order to enable the currently proposed site plan to work. Ms. Scheppske said yes, part of the cul-de-sac would have to be removed and the area would have to be landscaped. Peter Partington said that was City right-of-way. Ms. Scheppske said there was a Fire Department connection that would have to be relocated to come directly west (out to A-1-A), and currently the connection was on the road the applicant wishes to abandon. Ms. Scheppske explained the watermain had above ground features that would have to be relocated. Ms. Scheppske said the cul-de-sac and part of the public right-of-way would have to be changed. Ms. Scheppske said as part of the cul-de-sac the applicant has given an easement, therefore, that portion would have to be taken. Peter Partington asked if that was easement or a right-of-way and explained if given as right-of-way, the City would be the owner. Ms. Scheppske explained as the recommendation the applicant was asking the City to abandon that part of the cul-de-sac, as well. Ms. Orshefsky said if the cul-de-sac were to be vacated half would go back to The Palms and half would become part of the site, which would be used for emergency access.

Peter Partington asked about the cross access agreement. Jeff Lucas said there was no access between The Palms and their new building other than the private drive, which would be used for semi trucks to unload and there would not be a dedicated fire lane. Ms. Orshefsky said all of the loading/unloading would be underneath and inside. Jeff Lucas said the paver road between the Towers and the townhomes, at The Palms was for access to drop the hose and fight a fire, which could not be done from the front of The Palms. Jeff Lucas said if a road was 20-feet wide it could not be used as a fire lane. Ms. Orshefsky said her client has been led to believe that The Palms was required to provide a fire lane through the site. Ms. Orshefsky added that the residents of The Palms were supportive of the plan.

Tom Terrell suggested putting a right-of-way through The Palms and the Irelands Inn property. Tom Terrell stated the applicant would unload at the site, the Fire Department would get their turnaround, and the City would maintain beach and parking access on both sides of the property. Ms. Orshefsky said her client would meet with City staff to address fire access issues adjacent to The Palms. Ms. Orshefsky said from an access standpoint there was a direct access to A-1-A that was an improvement.

Discussion followed as to the turning radius for the fire trucks, an emergency access driveway to the south side of the site, the service drive underneath the building, a gate arm to prevent the public from using the area as public right-of-way, the idea of running a public right-of-way down the south side of the site and terminating the cul-de-sac.

Discussion followed as to the parking spaces on NE 22 Street and NE 23 Street and the possible loss of City parking.

Darlene Pfeiffer asked if the spaces on NE 23 Street were accessible and visible from the public roadways. Ms. Orshefsky said her client has placed at least five (5) parking spaces in the public right-of-way. Darlene Pfeiffer said the applicant was required to pay meter mitigation fees during the construction period while meters were off line. Ms. Orshefsky said her client would be happy to agree to mitigation and the right-of-way would be expanded in order to make the changes that are coming up on NE 23 Street. Darlene Pfeiffer said the mitigation fees would be close to \$10,000 a year, and if spaces were to be replaced, one (1) would be required to be ADA compliant. Darlene Pfeiffer added if the spaces were not replaced when construction was completed, the applicant would be obligated to pay 20-year meter mitigation fees.

Peter Partington said he did not like the idea that there were two (2) driveways right next to each other as that would encourage u-turns. Ms. Orshefsky said her client would address that issue in a circulation study.

Discussion followed as to the watermain, the sewer line, and where the Palms was being serviced for sewer.

Mr. Holland (member of the Central Beach Alliance Board), speaking on behalf of himself, said he was an advocate of the pedestrian using community. Mr. Holland added that many people are in accord with the project, but would like to see the commercial aspects of the plan.

Discussion followed as to the boardwalk that existed in front of The Palms.

Ms. Orshefsky said these types of boardwalks were not conducive to activity to redevelop the site and her client had a pedestrian circulation plan. Ms. Orshefsky said the continuation of the boardwalk was inconsistent with contemporary approaches to beach redevelopment.

Ms. Lopez (resident of Dolphin Isles) stated she has lived in Fort Lauderdale for 30 years and there was a master plan for the area that did not support vacations. Ms. Lopez said the comprehensive plan from the State of Florida, Broward County and the City of Fort Lauderdale; states access to the beach and parking spaces that are provided would be preserved. Ms. Lopez said the public beach was for the enjoyment of the people.

Ms. Orshefsky said her client would address and resolve the fire question, make sure there were no losses and potentially increase the amount of parking and availability on NE 23 Street. Ms. Orshefsky said as part of the traffic study that will be submitted through the DRC plan her client would fully address the access point at the south end, in terms of whether it was a controlled access and provide the Property and Right-of-Way (PROW) Committee with the benefit of the materials that have already been submitted to FDOT and Broward County for the approval of the southern service access drive.

Peter Partington asked if the applicant has formally submitted a vacation application. Ms. Orshefsky said yes. Ms. Orshefsky stated her client has formally submitted an application to DRC and will be resubmitting for completeness review for the DRC and rezoning application.

Peter Partington said the Committee's function would be to look at the section of the ordinance that talked about the right-of-way no longer needed for public purpose. Bob Dunckel declared the Committee was not bound by those criteria. Peter Partington said he wanted to focus on the right-of-way aspect, as distinct from the discussion that could take place at the DRC.

Tony Irvine said he was genetically opposed to the idea and did not see the accommodation for the public use and access of the beach. Tony Irvine said he sees a continuation of a wall to isolate the public from the beach. Tony Irvine said the public is slowly but surely being deprived of their use of the public beach, and finds the idea of boardwalk dumping in the sand offensive. Tony Irvine said he challenged the assertion that this was a high crime area.

Discussion followed as to parking space issues, pedestrian safety/liability issues, and beach access issues.

Tony Irvine said he keeps hearing that the public use of City access to the beach was not compatible with the clients plan development. Tony Irvine said he would like to challenge the applicant to make the plan development compatible with the public's right and the public's use. Tony Irvine said he was

prepared to vote against the proposal unless pedestrian/vehicular access fit in with the neighborhood associations and with the beach master plan. Ms. Orshefsky said her client has identified the fundamental problems with the beach access and was trying to correct those issues to the extent that correcting what was clearly a problem, meant shifting people to a different location where there were more eyes on the street.

Tom Terrell said he agreed with Tony Irvine. He said if the applicant restored the right-of-way on NE 22 Street it would be a nice compromise for getting Atlantic vacated, and would give the City twice as much parking and vehicle access in that vicinity.

Ms. Orshefsky explained part of the reason the driveway had to be private, and her client did not want the public coming in, was because FDOT did not want to encourage individual cars to utilize the driveway.

Peter Partington asked about loading on the site and the use of the driveway. Ms. Orshefsky explained underneath a portion of the site (understructure) there was a huge loading area to accommodate large trucks and was internalized. Peter Partington clarified that the Committee was supportive of the service drive, but not the public right-of-way.

James Cromar said after looking at the survey he noticed if someone wanted to be picked up at the beach, the distance would be 450-feet in addition to the length of The Palms. He said that would be nearly ¼ mile distance not accessible directly to the pedestrians. James Cromar said when an applicant asked for right-of-way vacations there would be a determination that the right-of-way was no longer needed for public purposes. James Cromar said closure of right-of-way provides safe areas for vehicles to turn around in, and closure of the right-of-way shall not adversely impact pedestrian traffic. James Cromar said the Planning Division did not usually support right-of-way vacations because some of these smaller developable parcels encourage a finer grade of development. James Cromar said the Planning Division normally asks the applicant to look at how they could develop their site without vacating the right-of-way. James Cromar said he realizes there are crime and access issues on the beach that the proposal addresses, but would ask the applicant to address those problems in the same way without the right-of-way vacation.

Ms. Orshefsky said included in the DRC package was an evaluation of what could be done in just the site area and the configuration that has been presented today. Ms. Orshefsky said her client would be addressing those issue again through the planning concept.

MOTION BY TONY IRVINE TO DEFER THE PROPOSED REQUEST UNTIL THE APPLICANT:

1) PROVIDED THE ACTUAL POLICE STATISTICS, 2) PROVIDED INPUT FROM THE NEIGHBORHOOD ASSOCIATIONS IN THE FORM OF A LETTER, AND 3) FOR PEDESTRIAN AND BEACH ACCESS TO BE LOOKED AT TO ASSURE CONFORMITY WITH ALL CURRENT BEACH MASTER PLANS. SECONDED BY BOB DUNCKEL.

Ms. Orshefsky said it was her understanding that the beach master plan did not go further than Sunrise Boulevard.

Bob Dunckel said the applicant would have the burden of satisfying the Committee and he had issues with the proposed request.

Bob Dunckel said on North Atlantic there were 14 spaces on the west side that appear to be more in the public right-of-way than in the private. Bob Dunckel said he has spent a lot of time working on

right-of-way issues in the City, and hears the argument about the crime, which brings to mind the problems that the City had in the Points of America. Bob Dunckel said he wanted the Board to be familiar with a previous litigation issue the City Attorney's Office was involved with, wherein the property owner used the same argument. He said the City Attorney's Office was opposed to the applicant's judicial attempts to convert to a private property.

Discussion followed as to the details of the litigation the City has been involved in.

Bob Dunckel said the streets were held in trust for the public and he would not vote for a vacation for any right-of-way going to the beach. Bob Dunckel said vacations were not the solution for crime problems, especially beach access. Peter Partington said he was not convinced about the pedestrian/vehicular access and had concerns about the driveway and its proximity to The Palms.

MOTION PASSED UNANIMOUSLY.

OTHER BUSINESS

DISCUSSION ABOUT PROPERTY AND RIGHT-OF-WAY MEETINGS

Address or General Location: N/A

Peter Partington said he would need the indulgence of the Committee members on an issue for input. Peter Partington said he was being told that it was going to be difficult for the Real Estate Division to continue servicing the Property and Right-of-Way (PROW) Committee in agenda preparation and minutes. Peter Partington said he was also being told that the same situation would apply if Public Works were to service and take the minute, etc., for the PROW Committee. Peter Partington asked if there was a consideration to abandon this body, would the members have concerns about that proposed course of action, and if that was legally allowable.

Tony Irvine said he believed the PROW Committee was one of the more important jobs that the City did and at the meetings various departments would give their input and various issues could be looked at. Tony Irvine said it would be a disaster to abandon this Committee because you would see people come in and steam over projects.

Peter Partington stated for a proposal similar to what was heard at today's PROW meeting an applicant would have to come to each member individually. Bob Dunckel stated the PROW Committee would not exist. Bob Dunckel said the applicant would go straight to the Planning and Zoning Division and believes issues are flushed out at the PROW meetings that are helpful to the overall process. Bob Dunckel said this Committee was one of the most unique Committees or boards of the entire City and was a multi-disciplinary approach to problem solving. Bob Dunckel said he has looked at an agenda and believed he knew what was going on, only to come to the PROW meeting and learn of other issues. Bob Dunckel said anybody that sits there and arrogantly states that this Committee was not needed has never had their feet on the ground and has never been responsible for making the kind of decisions and weighing the kind of issues that this Committee has done for the 20 years, that I have been with the City.

Peter Partington said he did not feel any one person had the point of view that the PROW Committee was not needed. Peter Partington said the Board might be forced into consideration of the question, therefore, he wanted to get input as to the Committee's view.

Discussion followed as to reference being made in the ULDR on staging areas for public projects.

Peter Partington said the PROW Committee was mentioned in the code as it pertains to staging areas. Carol Ingold Mordas said the Planning Department's representatives were at the DRC meetings, but the Fire Department, the Parking Division and a few other departments did not attend. Carol Ingold Mordas said the representative of other departments did not have the opportunity to hear input from everyone else. Peter Partington said basically everybody around the table, and every department they work for, was potentially representing at DRC. Tom Terrell said he did not agree and stated that the PROW was not representative at DRC. Tom Terrell said Tim Welch, with the Engineering Division, was a representative of the PROW Committee. Peter Partington said if the Committee did not exist, the application to vacate would be heard at the first public hearing in front of the Planning and Zoning Board, and at that point, it would be up to the individual departments to make their points. Peter Partington asked if a vacation would go to the DRC. Tony Irvine said yes.

James Cromar explained that Anthony Fajardo, Planner II, said that at Palm Beach County, where he used to work, DRC operations were performed differently. James Cromar explained the setting would be similar to the PROW Committee, wherein various opinions would be shared. He said the City, at this time, was not set up that way with DRC. James Cromar said there was a multi-disciplinary perspective valuable to the Committee members. Carol Ingold Mordas said each process at DRC was only given a thirty-minute discussion. She said if other issues came up applicants' were advised to follow up on an individually basis. Bob Dunckel said there was an overall vote at this meeting.

Bob Dunckel said he takes all issues discussed at the PROW meetings into consideration.

ADDITIONAL COMMENTS PERTAINING TO ITEM HEARD AT THE PREVIOUS PROW MEETING NOVEMBER 16, 2006

Address or General Location: N/A

Bob Dunckel said he had to leave the last PROW meeting early and had additional comments pertaining to the item discussion on page 7, **DISCUSSION REGARDING LICENSE AGREEMENTS FOR STAGING AREAS.**

Bob Dunckel said Earl Prizlee asked the Committee if a memo could be written to the City Attorney's Office asking for a standard revocable license agreement. Bob Dunckel explained the City Attorney's Office had a standard revocable license agreement for construction projects, but each one had their own nuance. Bob Dunckel said he agreed with Tony Irvine's statement as to not supporting the idea, as there were many variable conditions that are unique to each license agreement. Bob Dunckel added that Mike Fayyaz, said (November 16, 2006) he believed that the Committee could support asking the City Attorney's Office to expedite these license agreements. Bob Dunckel explained that each request had to be handled in the same priority as other priorities.

Bob Dunckel explained that the City Attorney's Office had to do one (1) revocable license agreement with regard to staging areas, wherein the company was going to be using City property. He said he originally thought a letter would suffice, but decided that a revocable license would have more insurance, indemnification, and a lot of things that would not be covered by a letter.

Meeting adjourned at 12:00 p.m.